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NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

on this date of: Sept. 28, 1999

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY MEDICAL
EXAMINERS

In the Matter of the Revocation
Or Suspension of the License of

PAUL MARTIN NOLAN, D.V.M.

To Practice Veterinary Medicine
In the State of New Jersey

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: Administrative Action

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: FINAL ORDER
: OF DISCIPLINE
:
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This matter was opened to the Board on information received and reviewed by the Board and on which the following preliminary findings were made in the Board's Provisional Order Of Discipline filed on July 7, 1999.

FINDINGS OF FACT

1. The respondent, Paul Martin Nolan, D.V.M., is a licensed veterinarian in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about January 4, 1999, the respondent's license to practice veterinary medicine in New York State was suspended, via a Consent Order, for a period of two (2) years. Two (2) months of the suspension constituted an active suspension, while the remaining twenty-two (22) months was served as a probationary period. Dr. Nolan also agreed in the Consent Order to pay a fine of \$5,000.00 to the Board of Regents on behalf of the State Board for Veterinary Medicine, Office of Professional Discipline of the New York State

Education Department ("New York Board") and to be placed on probation for two (2) years.

3. The Consent Order, approved by the New York Board on or about April 27, 1999, settled an administrative licensing action which had been initiated by the New York Board as a result of the respondent's conviction of an act which constituted a crime under Federal law. Dr. Nolan pled guilty, on or about September 24, 1997, to the crime of Failure to Properly Test for a Communicable Disease, a misdemeanor, in violation of Title 21, United States Code, Sections 120 and 122 and 9 Code of Federal Regulations, Section 91.3(b). Specifically, the respondent admitted that he had been retained to perform blood tests needed for the export to Germany of three (3) horses and that he had failed to properly test said horses for a communicable disease known as Equine Viral Arteritis, in that he had drawn three blood samples from one horse and falsely represented that those samples had been drawn from the three horses in question.

4. The Provisional Order further preliminarily concluded that Dr. Nolan's conviction for committing a crime under Federal law, as well as the suspension of his license to practice veterinary medicine in the State of New York, provided grounds for the suspension of his license to practice veterinary medicine in the State of New Jersey, pursuant to N.J.S.A. 45:1-21. Specifically, the Order recited that the respondent had: 1) engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, contrary to N.J.S.A. 45:1-21(b); 2) engaged in professional misconduct, in violation of N.J.S.A. 45:1-21(e); 3) been convicted

of a crime involving moral turpitude or any crime relating adversely to the activity regulated by the board, contrary to N.J.S.A. 45:1-21(f); and 4) his authority to engage in the activity regulated by the board revoked or suspended by another state, in violation of N.J.S.A. 45:1-21(g). Accordingly, the Provisional Order preliminary ordered that Dr. Nolan's license to practice veterinary medicine in this State be suspended for a period of two (2) years.

DISCUSSION OF FINALIZATION

On July 7, 1999, a Provisional Order of Discipline was entered and filed by the State Board of Veterinary Medical Examiners ("Board") and served on the respondent on or about July 14, 1999. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth (30) business day following entry unless Dr. Nolan requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal. The Order also advised that the written submission should set forth any and all reasons why said findings and conclusions should be modified or dismissed and present any and all documents or other written evidence supporting the respondent's request for consideration and reasons therefor. Finally, the Provisional Order reserved to the Board the discretion to consider the matter on the papers submitted or to conduct an evidentiary hearing in the event that the submission demonstrated material facts in dispute warranting such a hearing.

In response to the Provisional Order, Herbert W. Sterenfeld, Esquire, counsel for the respondent, submitted written

correspondence, dated July 26, 1999, for the Board's review on Dr. Nolan's behalf. In this document, counsel for Dr. Nolan conceded that the respondent had committed the Federal crime by violating the regulations of the Department of Agriculture ("DOA"). However, he provided the following mitigating information for the Board's consideration. Mr. Sterenfeld maintained that while Dr. Nolan has been licensed as a veterinarian for more than thirty (30) years, he has never been disciplined by any agency regulating his license until the present incident which occurred in 1995 in New York. Additionally, he advised that Dr. Nolan, who limits his veterinary practice to equine medicine, is also licensed by numerous racing boards in various states, including the New Jersey Racing Commission, and has never had any of these licenses suspended or revoked for any violations.

As to the underlying action, Dr. Nolan explained that the violation in question occurred when an old friend of the respondent requested that he submit blood samples to the DOA for three horses that were scheduled to be sent overseas. The respondent maintained that he obtained samples from the three horses in question but later realized that the samples to be sent to the federal laboratory were not of sufficient quantity to be tested. Due to the facts that time was of the essence, the horses were forty (40) miles away from the respondent, and as a result of his familiarity with the three horses' health conditions, Dr. Nolan chose to substitute the blood of a horse on his farm for that of the other three horses and forwarded that sample to the DOA. According to the respondent, there was no

criminal intent for fraud or profit on his part, only the intent to assist a friend. Moreover, counsel for Dr. Nolan also advised the Board that the horses were later properly tested and were negative for the disease.

The respondent further asserts that he quickly admitted his wrongdoing when confronted by the Office of the United States Attorney on the matter. Moreover, while acknowledging that the Board is authorized to discipline its licensees upon its findings of violations, Dr. Nolan argues that he has already been severely disciplined for his misconduct. As a result of his guilty plea to the Federal crime, the respondent was placed on probation for one (1) year probation, fined \$5,000.00, and required to perform 200 hours of community service. Additionally, he lost his accreditation with the DOA, which he maintains represented a substantial portion of his income, and was suspended from the practice of veterinary medicine for two years by the New York Board, of which two (2) months served as an active suspension, placed on probation for two years and fined \$5,000.00.

Finally, Dr. Nolan contends that he would suffer irreparable harm should the intended action of the Board, namely, the suspension of his license in New Jersey for a two (2) year period, be finalized because he would lose his racing clientele permanently in New Jersey, as well as other states, since most trainers and owners prefer continuity in the care and treatment of their horses. He asserts that his race clientele are the principle sources of his income. The respondent requested that the Board hold a hearing in

this matter so that he could present all of his evidence to mitigate against the proposed two(2) year suspension of his license.

Deputy Attorney General Brenda Talbot Lewis provided a written submission to the Board, dated August 25, 1999, on behalf of the Office of the Attorney General. In this submission, DAG Lewis acknowledges the respondent's request for a mitigation hearing and concludes that the Board must ascertain whether Dr. Nolan's submission substantiates the need for a modification or withdrawal of the Provisional Order, establishes a need for an evidentiary hearing or fails to persuade the Board that there are issues which merit further consideration, in which case the Board should finalize the Provisional Order without change.

CONCLUSIONS OF LAW

1. On September 1, 1999, the Board considered whether to affirm or modify its Provisional Order, schedule an evidentiary and/or a mitigation hearing. Board member David Meirs, D.V.M., recused himself from this matter and, hence, did not participate in the discussion or vote relative to the respondent. All materials submitted by both the respondent and the Deputy Attorney General were reviewed by the Board at this meeting. The respondent had ample opportunity to present mitigation evidence and in fact has done so. The Board determined however that further proceedings were not necessary and that no material discrepancies had been raised by Dr. Nolan's submission.

2. Following the review of the record, the Board, determined that no information had been presented which altered its

preliminary finding that respondent's conviction to the charges constitutes use or employment of dishonesty, fraud, deception and misrepresentation, as well as professional misconduct, contrary to the mandates of N.J.S.A. 45:1-21(b) and (e). Additionally, the Board found that Dr. Nolan's conviction involved a crime of moral turpitude and related adversely to the practice of veterinary medicine in violation of N.J.S.A. 45:1-21(f). The conviction is conclusive proof before the Board and supports its preliminary finding that the respondent's license should be suspended. Finally, the Board concluded that the suspension of the respondent's license in the State of New York provided grounds for disciplinary action in the State of New Jersey pursuant to N.J.S.A. 45:1-21(g).

3. Further, the Board found nothing submitted in Dr. Nolan's response to the Provisional Order that demonstrated a need for an evidentiary hearing on mitigation of the Board's decision. The Board found that written response by the respondent had sufficiently detailed Dr. Nolan's misconduct, his intent in performing said action and the actual sanctions, as well as potential harm he may suffer if the Provisional Order is finalized. The Board hence found that a hearing to reiterate this mitigation evidence was unnecessary.

4. The Board thoroughly considered the record before it. Notwithstanding the mitigation evidence presented by Dr. Nolan, the Board must take into consideration the respondent's admitted violation of the Federal law and regulations whereby he failed to properly test three horses for a communicable disease known as Equine

Viral Arteritis and falsely represented that the submitted samples had come from the animals in question. The nature and the seriousness of the crime committed by Dr. Nolan cannot be minimized or overlooked and demand that the Board exercise its statutory mandate to protect the public and animals from dishonest veterinary medicine practitioners. The Board finds that the need to ensure a high level of public confidence in the character and integrity of those holding a license to practice veterinary medicine in the State warrant the imposition of the two year suspension of Dr. Baker's license as provisionally imposed by the Board in July 1999.

IT IS, THEREFORE, ON THIS 27th DAY OF September 1999,

ORDERED THAT

1. The license of Paul Martin Nolan, D.V.M., to practice veterinary medicine in the State of New Jersey shall be and is hereby suspended for a period of two (2) years effective October 1, 1999.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: Thomas M. Jacks
THOMAS JACKS, Ph.D.
President